



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2014-0343: FRL -9914-34-Region 10]

Approval and Promulgation of Implementation Plans; Washington: Nonattainment New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Washington State Implementation Plan (SIP) that were submitted by the Department of Ecology (Ecology) on January 27, 2014. These revisions update the preconstruction permitting regulations for large industrial (major source) facilities located in designated nonattainment areas, referred to as the Nonattainment New Source Review (major nonattainment NSR or major NNSR) program. While these revisions update Ecology's major NNSR program generally, the most significant change is the incorporation of regulations to implement major NNSR for fine particulate matter, particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM_{2.5}). The major NNSR program is designed to ensure that major stationary sources of air pollution are constructed or modified in a manner that is consistent with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

DATES: Comments must be received on or before [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2014-0343,

by any of the following methods:

- A. www.regulations.gov: Follow the on-line instructions for submitting comments.
- B. Mail: Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101
- C. E-mail: R10-Public_Comments@epa.gov
- D. Hand Delivery: EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT - 107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2014-0343. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot

contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: For information on the major NNSR permitting program please contact Donna Deneen at (206) 553-6706 or deneen.donna@epa.gov. For information on the Washington SIP in general or the Tacoma-Pierce County PM_{2.5} nonattainment area, please contact Jeff Hunt at (206) 553-0256, hunt.jeff@epa.gov, or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we”, “us” or “our” are used, it is intended to refer to the EPA.

Table of Contents

- I. Purpose of Proposed Action
- II. Background for Proposed Action
- III. Effect of the January 4, 2013 D.C. Circuit Decision Regarding PM_{2.5} Implementation Under Subpart 4
- IV. Washington SIP Revisions
 - A. WAC 173-400-110, New Source Review (NSR) for Sources and Portable Sources; WAC 173-400-111, Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources; and WAC 173-400-112 Requirements for New Sources in Nonattainment Areas - Review for Compliance with Regulations.
 - B. WAC 173-400-800, Major Stationary Source and Major Modification in a

- Nonattainment Area.
- C. WAC 173-400-810, Major Stationary Source and Major Modification Definitions.
- D. WAC 173-400-820, Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.
- E. WAC 173-400-830, Permitting Requirements.
- F. WAC 173-400-840, Emission Offset Requirements.
- G. WAC 173-400-850, Actual Emissions Plantwide Applicability Limitation (PAL).
- H. WAC 173-400-171, Public Notice and Opportunity for Public Comment and WAC 173-400-860, Public Involvement Procedures
- I. WAC 173-400-131, Issuance of Emission Reduction Credits and WAC 173-400-136, Use of Emission Reduction Credits (ERC).
- V. The EPA's Proposed Action
 - A. Rules to Approve into the SIP
 - B. Scope of Proposed Action
- VI. Statutory and Executive Order Reviews

I. Purpose of Proposed Action

The EPA is proposing approval of revisions to Washington's SIP related to major NNSR that were submitted by Ecology on January 27, 2014. The revisions update the general air quality regulations that apply to sources within Ecology's jurisdiction, including the minor new source review permitting program; regulations covering the major source Prevention of Significant Deterioration (PSD); and regulations covering major NNSR. On July 10, 2014 (79 FR 39351) the EPA proposed to approve the general provisions contained in Chapter 173-400 of the Washington Administrative Code (WAC) that apply to all sources under Ecology's permitting jurisdiction, as well as the minor source permitting program. In that first proposal, the EPA stated that we would act separately on the major source permitting programs. In this proposal, the second in the series, the EPA is proposing to approve the major source NNSR regulations contained in WAC 173-400-800 through 173-400-860, as well as other parts of Chapter 173-400 WAC that support major NNSR. In a future proposal, the third in the series, the EPA will act on the remainder of Ecology's January 27, 2014 submittal, covering the

Prevention of Significant Deterioration (PSD) and visibility permitting requirements for major stationary sources.

II. Background for Proposed Action

On July 18, 1997, the EPA revised the NAAQS for particulate matter to add new standards for fine particles, using PM_{2.5} as the indicator. Previously, the EPA used PM₁₀ (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the particulate matter NAAQS. The EPA established health-based (primary) annual and 24-hour standards for PM_{2.5}, setting an annual standard at a level of 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and a 24-hour standard at a level of 65 $\mu\text{g}/\text{m}^3$ (62 FR 38652). At the time the 1997 primary standards were established, the EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of PM_{2.5}, such as visibility impairment and materials damage. Washington had no areas violating the annual or 24-hour 1997 PM_{2.5} NAAQS at the time the standards were promulgated.

On October 17, 2006, the EPA revised the primary and secondary PM_{2.5} NAAQS (71 FR 61236). In that rulemaking, the EPA reduced the 24-hour PM_{2.5} NAAQS to 35 $\mu\text{g}/\text{m}^3$ and retained the existing annual PM_{2.5} NAAQS of 15 $\mu\text{g}/\text{m}^3$. In 2009, as a result of the change in the 24-hour PM_{2.5} NAAQS from 65 $\mu\text{g}/\text{m}^3$ to 35 $\mu\text{g}/\text{m}^3$, the EPA designated part of Pierce County as nonattainment based on 2006-2008 monitoring data (74 FR 58688, November 13, 2009). The Tacoma-Pierce County PM_{2.5} nonattainment area covers most of the greater Tacoma area and the surrounding communities within Pierce County's urban growth area west of State Route 167 and is currently the only nonattainment area in Washington State. Finally, on December 14, 2012, the EPA reduced the primary annual PM_{2.5} NAAQS to 12 $\mu\text{g}/\text{m}^3$ (78 FR 3086). However, the

reduced annual PM_{2.5} NAAQS will likely have minimal impact on Washington or the Tacoma-Pierce County PM_{2.5} nonattainment area because the State's PM_{2.5} nonattainment problems are generally dominated by short-term 24-hour spikes associated with residential wood combustion during winter inversions, when stagnant air is trapped in low lying areas.

On May 16, 2008, the EPA finalized a rule to implement the 1997 PM_{2.5} NAAQS, including changes to the New Source Review (NSR) program (the NSR PM_{2.5} Rule, 73 FR 28321). The 2008 NSR PM_{2.5} Rule revised the NSR program requirements to establish a framework for implementing preconstruction permit review for the PM_{2.5} NAAQS in both attainment and nonattainment areas. The 2008 NSR PM_{2.5} Rule also established the following NSR requirements to implement the PM_{2.5} NAAQS: (1) required NSR permits to address directly emitted PM_{2.5} and precursor pollutants; (2) established significant emission rates for direct PM_{2.5} and precursor pollutants, including sulfur dioxide (SO₂) and oxides of nitrogen (NO_x); (3) established PM_{2.5} emission offsets for nonattainment areas; and (4) required states to account for gases that condense to form particles (condensables) in PM_{2.5} emission limits. The Ecology regulations, submitted to the EPA on January 27, 2014, were revised to address the requirements of the 2008 NSR PM_{2.5} rule, as well as to provide general updates that apply to all NAAQS.

III. Effect of the January 4, 2013 D.C. Circuit Decision Regarding PM_{2.5}

Implementation Under Subpart 4

On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council v. EPA*¹ issued a decision that remanded the EPA's 2007 and 2008 rules implementing the 1997 PM_{2.5} NAAQS. Relevant here, the 2008 NSR PM_{2.5} Rule promulgated NSR requirements for implementation of PM_{2.5} in both nonattainment areas and attainment/unclassifiable areas. The Court found that the EPA erred in implementing the PM_{2.5}

NAAQS in these rules solely pursuant to the general implementation provisions of subpart 1 of part D of title I of the Clean Air Act, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The Court ordered the EPA to “repromulgate these rules pursuant to Subpart 4 consistent with this opinion.” *Id.* at 437.

On June 2, 2014, the EPA published a final rulemaking, *Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) and 2006 PM_{2.5} NAAQS*, that begins to address the remand (79 FR 31566). The final rule classified all existing PM_{2.5} nonattainment areas as “Moderate” nonattainment areas and set a deadline of December 31, 2014, for states to submit any SIP submissions, including nonattainment NSR SIPs, that may be necessary to satisfy the requirements of subpart 4, part D, title I of the CAA with respect to PM_{2.5} nonattainment areas.

In a separate rulemaking process, the EPA is evaluating the requirements of subpart 4 as they pertain to nonattainment NSR for PM_{2.5} emissions. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of PM₁₀ precursors “except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels which exceed the standard in the area.” Under the Court’s decision in *NRDC*, section 189(e) of the CAA also applies to PM_{2.5}.

Ecology’s SIP submission included revisions to two definitions in Ecology’s nonattainment NSR program. The revised definition of “regulated NSR pollutant” at WAC 173-400-810(24) identifies precursors to both ozone and PM_{2.5} in nonattainment areas. With respect to PM_{2.5}, the revised definition of “regulated NSR pollutant” at WAC 173-400-810(24) identifies sulfur dioxide and nitrogen oxides as regulated PM_{2.5} precursors while volatile organic

¹ 706 F.3d 428 (D.C. Cir. 2013).

compounds (VOCs) and ammonia are not regulated PM_{2.5} precursors in PM_{2.5} nonattainment areas in the State. The revised definition of “significant” at WAC 173-400-810(27) adds significant emission rates for direct PM_{2.5} and for sulfur dioxide and nitrogen oxides as PM_{2.5} precursors. These revisions, although consistent with the 2008 NSR PM_{2.5} Rule developed in accordance with subpart 1 of the Act, may not contain the elements necessary to satisfy the Clean Air Act requirements when evaluated under the subpart 4 statutory requirements. In particular, Ecology’s submission does not include regulation of VOCs and ammonia as PM_{2.5} precursors, nor does it include a demonstration consistent with section 189(e) showing that major sources of those precursor pollutants would not contribute significantly to PM_{2.5} levels exceeding the standard in the area. For these reasons, the EPA cannot conclude at this time that this part of Ecology’s nonattainment NSR submission satisfies all of the requirements of subpart 4 as they pertain to PM_{2.5} nonattainment NSR permitting.

Although the revisions to Ecology’s nonattainment NSR rule may not contain all of the necessary elements to satisfy the CAA requirements when evaluated under the subpart 4 provisions, the revisions themselves represent a strengthening of the currently-approved Washington SIP which does not address PM_{2.5} at all. As a result of the June 2014 final rule, Ecology will have until December 31, 2014, to make any additional submission necessary to address the requirements of subpart 4, including addressing the PM_{2.5} precursors VOCs and ammonia. For these reasons, the EPA is proposing to approve the major NNSR revisions at WAC 173-400-800 through 173-400-860, as further discussed below, without listing as a deficiency at this time the absence of either the regulation or evaluation of VOCs and ammonia as PM_{2.5} precursors.

IV. Washington SIP Revisions

A. WAC 173-400-110, New Source Review (NSR) for Sources and Portable Sources; WAC 173-400-111, Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources; and WAC 173-400-112 Requirements for New Sources in Nonattainment Areas - Review for Compliance with Regulations.

As described in more detail in the EPA's July 10, 2014 proposal, WAC 173-400-110 through -112 are the starting point for any source seeking to construct a new source or modify an existing source in a nonattainment area under Ecology's rules, whether major or minor. Specific provisions in these sections direct sources constructing a "major" source or making a "major modification" to a "major" source in a nonattainment area to also comply with the requirements of WAC 173-400-800 through -860. See, for example, WAC 173-400-110(1)(d). As also discussed in that July 2014 action, the EPA's review of WAC 173-400-110 through -112 expressly did not include a determination that these revised regulations met requirements for approval of a SIP-approved major NNSR permitting program (40 CFR 51.165). In this action, we are proposing to approve WAC 173-400-110 through -112 for purposes of implementing the major NNSR permitting program because these provisions require compliance with WAC 173-400-800 through -860 (which, as discussed below, are consistent with the CAA requirements for a major NNSR permitting program) and contain other related permit and permit processing provisions that are consistent with CAA requirements.

B. WAC 173-400-800, Major Stationary Source and Major Modification in a Nonattainment Area.

As described in more detail in the EPA's July 10, 2014 proposal, Ecology shares permitting jurisdiction with seven local clean air agencies and one other state agency, the Energy Facilities Site Evaluation Council (EFSEC). WAC 173-400-800, in conjunction with WAC 173-400-020, describes how Ecology's nonattainment NSR regulations apply in the local and EFSEC jurisdictions. At this time, the EPA is proposing approval of WAC 173-400-800 through 173-400-860 only for those facilities subject to Ecology's direct permitting jurisdiction. This includes all facilities located in Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan, Stevens, Walla Walla, and Whitman Counties. It also included also includes kraft pulp mills, sulfite pulping mills, and primary aluminum plants, for which Ecology has direct state-wide permitting jurisdiction under the SIP approved provisions of WAC 173-405-012, WAC 173-410-012, and WAC 173-415-012. Ecology's direct permitting jurisdiction includes the largest industrial source in the Tacoma-Pierce County PM_{2.5} nonattainment area, the kraft pulp mill owned by RockTenn (formerly Simpson Tacoma Kraft). The remaining facilities in the nonattainment area are subject to the Puget Sound Clean Air Agency's permitting jurisdiction. The EPA intends to review and act upon Puget Sound Clean Air Agency's nonattainment NSR regulations in a separate, future action.

C. WAC 173-400-810, Major Stationary Source and Major Modification Definitions.

Section 173-400-810 WAC incorporates the definitions contained in 40 CFR 51.165, the regulation that sets forth the requirements for SIPs for major NNSR. This includes important definitional changes made in the EPA's 2008 NSR PM_{2.5} Rule establishing SO₂ and NO_x as presumptive PM_{2.5} precursors, with significant emission rates of 40 tons per year (tpy) for each pollutant. It also includes significant emission rates for PM₁₀ of 15 tpy and PM_{2.5} of 10 tpy,

including gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. This section makes clear that, in the case of a conflict between the definitions contained in WAC 173-400-810 and other parts of Chapter 173-400 WAC, the definitions of WAC 173-400-810 apply to major NNSR. The EPA reviewed Ecology's submission and is proposing to approve the definitions contained in WAC 173-400-810 as consistent with the EPA's definitions contained in 40 CFR 51.165.

D. WAC 173-400-820, Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.

WAC 173-400-820 uses the emission calculations found in 40 CFR 51.165 to determine if a project in a nonattainment area is subject to major NNSR requirements due to an increase in its emissions. The EPA reviewed Ecology's submission and is proposing to approve the emission calculations provisions contained in WAC 173-400-820 as consistent with 40 CFR 51.165(2).

E. WAC 173-400-830, Permitting Requirements

The majority of this section was part of the existing SIP at WAC 173-400-112 (1993), *Requirements for New Sources in Nonattainment Areas*, which the EPA last approved in 1995 (60 FR 28726, June 2, 1995). Ecology moved the major source nonattainment NSR provisions to a new WAC 173-400-800 through 173-400-860 for clarity to the public and regulated community. Ecology also incorporated other 40 CFR 51.165 requirements which were added to regulation since the EPA's last approval in 1995. The EPA reviewed WAC 173-400-830 and is proposing to determine that it is consistent with the SIP-approved provisions formerly contained in WAC 173-400-112 and the EPA's permitting requirements contained in 40 CFR 51.165.

F. WAC 173-400-840, Emission Offset Requirements.

Under CAA section 173, all major sources and major modifications at existing major sources within a nonattainment area must obtain emissions reductions to offset any emissions increases of nonattainment pollutants resulting from the project in an amount that is at least equal to the emissions increase, and that is consistent with reasonable further progress towards attainment. The EPA refers to the proportional difference between the amount of required offsets to the amount of emissions increases as the “offset ratio.” The CAA specifies an offset ratio for several situations. In ozone nonattainment areas subject to subpart 2 (of title 1, part D of the CAA), the ratio is set between 1.1:1 and 1.5:1 depending on the level of classification pursuant to subpart 2. For other nonattainment areas, the CAA establishes a minimum offset ratio of 1:1. The EPA has reviewed Ecology’s offset program and ratios and is proposing to approve WAC 173-400-840 as consistent with the CAA.

G. Section 173-400-850 WAC, Actual Emissions Plantwide Applicability Limitation (PAL).

WAC 173-400-850 adopts by reference the plant-wide applicability limit process and requirements of 40 CFR Part 51, Appendix S, with the minor clarifications to adapt Appendix S to Ecology’s permitting program. The EPA has reviewed WAC 173-400-850 and is proposing to determine that it is consistent with 40 CFR Part 51, Appendix S.

H. WAC 173-400-171, Public Notice and Opportunity for Public Comment and WAC 173-400-860, Public Involvement Procedures

This section states that the public participation procedures contained in section 173-400-171 WAC, proposed for approval by the EPA on July 10, 2014, shall be used for any major NNSR permit issued pursuant to WAC 173-400-830 or WAC 173-400-850. Public participation requirements for major NNSR permitting must be consistent with the requirements of 40 CFR

51.160 and 161. See 40 CFR 51.165(f)(5). Having proposed to determine in our previous action that WAC 173-400-171 is consistent with 40 CFR 51.160 and 161 for purposes of minor NSR, we now propose to find that WAC 173-400-171 and -860 meet CAA requirements for major NNSR.

I. WAC 173-400-131, Issuance of Emission Reduction Credits and WAC 173-400-136, Use of Emission Reduction Credits (ERC).

WAC 173-400-131 and 173-400-136 implement a program to issue emission reduction credits (ERC's) useable for offsets required by the major NNSR permitting program and the attainment area offset provisions for major sources in WAC 173-400-113(4). ERC's under this program may also be used as creditable emission reductions for netting purposes in the major NNSR and PSD permitting programs provided they meet the requirements set forth in the definitions of "major modification" in those programs. Since the EPA last approved Chapter 173-400 WAC, Ecology has revised these provisions to make them consistent with the EPA's Final Emissions Trading Policy Statement, (51 FR 43814, December 4, 1986) and 40 CFR 51.165 and 51.166. The EPA is therefore proposing to approve both WAC 173-400-131 and WAC 173-400-136 as consistent with the CAA but only for the purposes of implementing Washington's major NNSR program. The EPA will take action on these provisions for purposes of Ecology's PSD permitting program in a separate, future action.

V. The EPA's Proposed Action

Consistent with the discussion above, the EPA proposes to approve the major NNSR revisions submitted by Ecology on January 27, 2014. The EPA plans to take action on the remaining provisions related to PSD and visibility permitting requirements for major stationary sources in a separate, future action. This action will result in proposed changes to the

Washington SIP in 40 CFR part 52, subpart WW.

A. Rules to Approve into the SIP

The EPA proposes to approve into the SIP at 40 CFR part 52, subpart WW, the Ecology regulations listed in Table 1. The EPA is also affirming that the July 10, 2014 proposed approval of the general air quality regulations contained WAC 173-400-110 through -112 and WAC 173-400-171 meet the EPA's requirements for major NNSR.

Table 1: Washington State Department of Ecology Regulations for Proposed Approval

State Citation	Title/Subject	State Effective Date	Explanation
Chapter 173-400 WAC, General Regulations for Air Pollution Sources.			
173-400-131	Issuance of Emission Reduction Credits	4/1/11	
173-400-136	Use of Emission Reduction Credits (ERC).	12/29/12	
173-400-800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	
173-400-810	Major Stationary Source and Major Modification Definitions.	12/29/12	
173-400-820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	
173-400-830	Permitting Requirements.	12/29/12	
173-400-840	Emission Offset Requirements	12/29/12	
173-400-850	Actual Emissions Plantwide Applicability Limitation (PAL).	12/29/12	
173-400-860	Public Involvement Procedures.	4/1/11	

B. Scope of Proposed Action

As previously discussed in the EPA's July 10, 2014 proposal regarding applicability under section 173-400-020 WAC, the EPA's proposed approval at this time is limited to only those counties or sources where the Department of Ecology has direct jurisdiction. This proposed action excludes sources subject to EFSEC or local clean air agency jurisdiction. The counties where Ecology has direct jurisdiction are: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, San Juan,

Stevens, Walla Walla, and Whitman Counties. The EPA also notes that under the SIP approved provisions of WAC 173-405-012, WAC 173-410-012, and WAC 173-415-012, Ecology has statewide, direct jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants, including the RockTenn facility located in the Tacoma-Pierce County PM_{2.5} nonattainment area.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves the state's law as meeting Federal requirements and does not impose additional requirements beyond those imposed by the state's law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the state, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated February 25, 2014. The EPA did not receive a request for consultation.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 16, 2014.

Dennis J. McLerran,
Regional Administrator,
Region 10.

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